

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BROWN PUBLISHING COMPANY,	:	Case No. 1:08-cv-585
	:	
Plaintiff,	:	Chief Judge Susan J. Dlott
	:	Magistrate Judge Timothy S. Black
vs.	:	
	:	
EMPLOYER BENEFIT SERVICES	:	
OF OHIO, INC.,	:	
	:	
Defendant.	:	

**REPORT AND RECOMMENDATION¹ THAT: (1) PLAINTIFF BE AWARDED
REASONABLE ATTORNEYS' FEES AND COSTS AND THAT (2) THIS CASE
BE CLOSED**

This case is before the Court on an affidavit by Plaintiff Brown Publishing Company for attorneys' fees and costs incurred as a result of the improper removal of this action pursuant to 29 U.S.C. §1447(c). (Doc. 19). Defendant did not object to Plaintiff's affidavit seeking attorneys' fees and costs.

By Order dated January 29, 2009, the Chief District Judge stated "that based on the facts of this case, Defendant, the removing party, lacked an objectively reasonable basis for seeking removal, and the Court finds that plaintiff is entitled to its attorneys' fees and expenses pursuant to 28 U.S.C. § 1447(c)." (Doc. 16 at 1). Additionally, the Court ordered Plaintiff to submit supporting documentation with respect to its fees and

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

expenses. (*Id.* at 2).

Plaintiff's affidavit requests \$8,614 in attorneys' fees for 34.4 hours spent by counsel responding to the notice of removal and preparing and filing subsequent motions and \$160.15 in costs, for a total of \$8,774.15. (Doc. 19, Ex. A). The Court has reviewed Plaintiff's affidavit and fee statement and finds that its requested fees and costs are reasonable. Additionally, Defendant has filed no opposition to Plaintiff's request. Therefore, the Court determines that pursuant to 29 U.S.C. §1447(c), an award of \$8,774.15 is reasonable and just.

Accordingly, the undersigned **RECOMMENDS** that:

- (1) Defendant pay Plaintiff \$8,774.15 within **SIXTY DAYS** of the Court's Order; and
- (2) That this case be **CLOSED**.

Date: May 4, 2009

s/ Timothy S. Black
Timothy S. Black
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report and Recommendation within **TEN DAYS** after being served with a copy thereof. That period may be extended by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the Report and Recommendation objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to an opponent's objections within **TEN DAYS** after being served with a copy those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).